

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lara Freishtat	Team: Team # 4	CCRB Case #: 200710793	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 07/28/2007 9:15 PM	Location of Incident: the gas station at Mother Gaston Boulevard and Sutter Avenue	Precinct: 73	18 Mo. SOL 1/28/2009	EO SOL 1/28/2009	
Date/Time CV Reported Sat, 07/28/2007 11:28 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 07/28/2007 11:28 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Kaz Daughtry	28690	940052	073 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Edson Gloragille	26716	936671	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Kaz Daughtry	Abuse: PO Kaz Daughtry stopped § 87(2)(b)	
B.POM Kaz Daughtry	Force: PO Kaz Daughtry pointed his gun at § 87(2)(b)	
C.POM Kaz Daughtry	Abuse: PO Kaz Daughtry threatened § 87(2)(b) with the use of force.	

Synopsis

On July 28, 2007, at approximately 9:15 PM, § 87(2)(b) and his friends, § 87(2)(b) and § 87(2)(b) rode their motorcycles into the gas station located at the corner of Sutter Avenue and Mother Gaston Boulevard in Brooklyn. While there, they observed another, unidentified motorcyclist whom they did not know drive out of the gas station and hit a young individual on a bicycle at the exit ramp. A marked police car driven by PO Kaz Daughtry and with PO Edson Gloragille in the passenger seat followed the male who hit the young individual around the block and returned to the gas station after losing this unidentified male. PO Daughtry then pulled up in front of § 87(2)(b) who was about to leave the gas station at the exit ramp on the Mother Gaston Boulevard side (**Allegation A**). PO Daughtry exited the vehicle, drew his firearm and pointed it at § 87(2)(b) (**Allegation B**) and stated, “Turn off the fucking bike or I’ll kill you” (**Allegation C**). § 87(2)(b) turned off the motorcycle. PO Daughtry asked § 87(2)(b) if he knew who it was that had just struck the young individual and § 87(2)(b) told him that he did not know that person. PO Daughtry asked for § 87(2)(b)’s ID and checked it. PO Daughtry determined that because § 87(2)(b) was a § 87(2)(b) employee, he was going to allow him to leave the scene. PO Daughtry later completed a stop and frisk report regarding the stop.

This investigation was originally assigned to Inv. Andrew Gordon. When Inv. Gordon transferred to the Mediation Unit, this case was re-assigned to Inv. Lara Freishtat on April 2, 2008. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

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Summary of Complaint

§ 87(2)(b) a § 87(2)(b) employee, filed this complaint with the CCRB via the call processing system on July 28, 2007 (**see enclosure 4**). § 87(2)(b) provided a telephone statement on July 31, 2007 and then an official, in-person statement with a photo array on August 7, 2007 (**see enclosures 5a-5f**). On August 21, 2007, § 87(2)(b) provided more details over the telephone (**see enclosure 5h**). § 87(2)(b)’s statements were generally consistent, and any notable discrepancies are noted.

On July 28, 2007, at approximately 9:15 PM, § 87(2)(b) and two of his friends, § 87(2)(b) and § 87(2)(b) were riding their motorcycles and had stopped at a self-service gas station (as such, there were no gas station attendants outside at the time of the incident) on the northwest corner of Sutter Avenue and Mother Gaston Boulevard in Brooklyn (**see enclosure 4a**). § 87(2)(b) was riding a blue Kawasaki motorcycle and was wearing a white t-shirt and jeans; he recalled in a later phone statement that he had a cell phone on him and that this was inside one of his pants pockets. § 87(2)(b) was riding a grey and black Suzuki motorcycle and was wearing a t-shirt and jeans and § 87(2)(b) was riding a yellow and blue Honda motorcycle and was also wearing a t-shirt and jeans. They had stopped at the gas station to get gas and air for their tires. They had been there for less than 10 minutes. There was a fourth male who had arrived at the gas station about five minutes after § 87(2)(b) and his friends had; he was riding a red and black motorcycle, possibly a Honda. § 87(2)(b) did not know this individual and described him as a black male with jeans and a t-shirt. § 87(2)(b) was not under the influence of any drugs or alcohol.

The other male riding the red and black motorcycle exited the gas station on Mother Gaston Boulevard while § 87(2)(b) and his friends were still getting gas and air. There was a younger black unknown individual who was maybe § 87(2)(b) old and wearing a white t-shirt, riding a “peddle bike” south on Mother Gaston Boulevard. This younger individual “clipped” the rider on the red and black motorcycle and fell down. The younger individual got up, “dusted himself off,” got back on his bike and peddled away.

At this moment, a marked patrol car was driving northbound on Mother Gaston Boulevard and observed the collision. The male on the red and black motorcycle turned his bike around, passed through the gas station, and drove westbound on Sutter Avenue with the marked patrol car in pursuit. Meanwhile, § 87(2)(b) and his friends observed the events.

§ 87(2)(b) and § 87(2)(b) had just finished getting gas and § 87(2)(b) was putting air in his tires and they were about to leave the gas station. § 87(2)(b) began to drive away while § 87(2)(b) and § 87(2)(b) were still behind him, off of their bikes near the air pump. § 87(2)(b) was pulling onto Mother Gaston Boulevard when the same patrol car drove south on Mother Gaston Boulevard and stopped in front of him, preventing him from leaving. § 87(2)(b) believed the car had gone around the block without having caught the male on the red and black bike.

The driver then exited the vehicle and approached § 87(2)(b) with his gun drawn and pointed at § 87(2)(b) saying, "Turn off the bike or I will fucking kill you." § 87(2)(b) described this officer as a black male with a slim-build, about 5'7", with a "Caesar" hair cut and dark skin. § 87(2)(b) later identified this officer as PO Kaz Daughtry by his shield number – 28690 – which he obtained at the scene. One of his friends had obtained PO Daughtry's name at the scene, as well. The car the officers had arrived in had the number 2305, which § 87(2)(b) took a picture of on his cell phone during the incident. He showed this photo during his CCRB interview, but it was never provided in hard copy form.

§ 87(2)(b) immediately pressed the "kill switch" on his bike to turn it off. He put his hands up and asked "Yes, but what did I do?" PO Daughtry then approached and began to try to take the key out of the bike's ignition. § 87(2)(b) noticed that PO Daughtry appeared nervous because he was shaking while doing this; by this point, PO Daughtry had holstered his weapon. § 87(2)(b) still had his hands up and PO Daughtry told him, "Put your hands down, this ain't no stick up." § 87(2)(b) then offered to take the key out of the ignition himself because he was worried that PO Daughtry might break the key as he was having trouble removing it. § 87(2)(b) removed the key, put down the bike's kick stand and took off his helmet and gloves.

PO Daughtry asked § 87(2)(b) for his ID and registration and § 87(2)(b) gave the officer his bike registration, his driver's license and his § 87(2)(b) work ID. § 87(2)(b) asked PO Daughtry why he pulled his gun out but PO Daughtry did not explain why. § 87(2)(b) indicated that he continuously asked PO Daughtry, in an excited manner, why he was stopped and why the gun was drawn. § 87(2)(b) and § 87(2)(b) had also approached and asked PO Daughtry why he stopped § 87(2)(b) who rides a blue motorcycle, when the problem the officers had was with a guy on a red motorcycle; none of the officers asked § 87(2)(b) or § 87(2)(b) for their identification.

During this time, PO Daughtry's partner, identified through the investigation as PO Edson Gloragille, also exited the vehicle, but he did not interact with § 87(2)(b) at this point. § 87(2)(b) asked PO Gloragille, who was calm throughout the situation, why PO Daughtry had pulled out his gun. PO Gloragille responded, "I have no idea, but everyone has a job to do."

There were approximately 10 people in the vicinity "passing through." § 87(2)(b) did not know them. Some of these people were asking the officers, "Why did you stop him?" in regards to § 87(2)(b) § 87(2)(b) could not provide any more information regarding these people.

PO Daughtry then asked § 87(2)(b) about the male on the red and black motorcycle and told § 87(2)(b) "I know you know him." § 87(2)(b) explained that he did not know the male and that that day was "Old Timer's Day," which is a day where a lot of people have barbeques and ride motorcycles. PO Daughtry then asked § 87(2)(b) if he saw the incident between the young individual on the peddle bike and the male on the motorcycle. § 87(2)(b) said, "I did, but what does that have to do with me?"

PO Daughtry ran § 87(2)(b)'s identification and registration documents and gave them back without issuing a summons. The officers then left the scene. § 87(2)(b) did not see any other officers who arrived later to the scene. In his later telephone statement, § 87(2)(b) did state that there were two

other officers across the street, in front of a grocery store called “3M’s.” These officers were not paying attention to this incident and were “handling their own business.” § 87(2)(b) also stated in this later phone statement that he was never frisked or searched during the incident.

After the incident, § 87(2)(b) spoke to two people who said that they had seen the incident: a man named § 87(2)(b) later identified through investigation as § 87(2)(b) who gave § 87(2)(b) his phone number and an older female, identified through the investigation as § 87(2)(b) who gave § 87(2)(b) her address. § 87(2)(b) had been present in the area since the incident involving the male on the red and black bike. § 87(2)(b) had come out of a bodega next door to the gas station on Mother Gaston Boulevard at an undetermined time. From where he was stopped, § 87(2)(b) could not see people inside of the bodega or the Chinese restaurant next to the bodega. A small crowd of people did gather, “not enough to stop traffic” though, but § 87(2)(b) could not identify any of these people or say exactly how many there were.

After the interview, § 87(2)(b) viewed a photo array including PO Daughtry in slot two and filler officers in the other slots. § 87(2)(b) was not able to identify any of the officers.

Results of Investigation

Witness Statements

§ 87(2)(b)

§ 87(2)(b) was one of the individuals to approach § 87(2)(b) after the stop after having witnessed the entire incident. § 87(2)(b) was interviewed over the phone on August 16, 2007 (see **enclosure 6a**). He later reviewed this statement in person, signed it and provided some further details on October 9, 2007 (see **enclosure 6b**). Finally, § 87(2)(b) provided more information over the telephone on October 10, 2007 (see **enclosure 6c**). While § 87(2)(b)'s statements were generally consistent, any important discrepancies shall be noted.

On July 28, 2007, at approximately 9:15 PM, § 87(2)(b) was walking his dog in the vicinity of Mother Gaston Boulevard and Sutter Avenue when he saw a “kid” (whom § 87(2)(b) was later to describe as a young black female) on a peddle bike collide with a husky black male riding on a blue motorcycle exiting the gas station.

In total, there were approximately six or seven people on motorcycles getting gas at the gas station.

Two police officers in a patrol car witnessed the collision and flashed their lights, at which point the individual who had hit the kid turned around, passed through the gas station and fled from the officers, who chased him. Meanwhile, two other people on motorcycles had fled the scene as well. There were still three males at the gas station with motorcycles though and they were riding red, yellow and blue motorcycles. § 87(2)(b) told them to leave the scene because he believed the officers would come back to “fuck with” them, or rather stop them, because he knew that the officers would not catch the people fleeing and would return to see if they had any information about the people who fled.

The three males finished getting gas and began to leave the scene when the police car that had chased the individual on the blue motorcycle blocked in one of the males now exiting the gas station by pulling up in front of him. This individual was also riding a blue motorcycle and was identified through investigation as § 87(2)(b). It should be noted here that § 87(2)(b) did not know § 87(2)(b) “from a hole in the wall” and has not seen him prior to or since witnessing this incident.

Two officers, identified through the investigation as PO Kaz Daughtry and PO Edson Gloragille, then exited the vehicle. § 87(2)(b) described PO Daughtry as a light-skinned black male, with a slim build, a dark “fade” hair and glasses. PO Gloragille was described as a darker, shorter and heavier set black male with a crew cut. PO Daughtry had been on the driver’s side and PO Gloragille had been on the passenger’s side.

PO Daughtry exited the vehicle with his gun drawn and pointed at the individual on the bike and stated, "Turn off the fucking bike or I will kill you." § 87(2)(b) then turned off the bike. PO Gloragille was much calmer and did not have his gun drawn. PO Gloragille gave the individual on the blue motorcycle a "pat down" frisk of his waistband and pants pockets during the stop. No officers entered § 87(2)(b)'s pockets. § 87(2)(b) could not see if § 87(2)(b) had a cell phone on him or not.

During this interaction, § 87(2)(b) was approximately 10 feet away on the same side of the street as where the interaction was taking place.

Meanwhile, § 87(2)(b) had seen two officers from PSA 2, identified because they had the number 2 on the collars of their uniforms and § 87(2)(b) sees officers from PSA 2 frequently in his neighborhood, eating inside of a nearby Chinese restaurant. They had come out and observed the interaction but did not get involved. § 87(2)(b) described them both as light-skinned and that one of them may have been Hispanic. He believed they were on foot because there were no other police vehicles in the vicinity.

§ 87(2)(b) stated that at the end of the stop, after everything was done and just before the officers were preparing to leave, a male Hispanic "sergeant" came to the scene. But § 87(2)(b) did not see this officer do anything noteworthy.

After the incident, § 87(2)(b) approached § 87(2)(b) and offered to be a witness in giving him his phone number. He did not discuss the incident with § 87(2)(b).

§ 87(2)(b)

§ 87(2)(b)'s friend, was interviewed over the phone on August 17, 2007 (see enclosure 7a). Attempts were made to get an official statement from § 87(2)(b). After his phone statement was taken, he was scheduled to come to the CCRB on August 21, 2007, but he failed to appear for this appointment. A please call letter was sent to him on August 31, 2007. The undersigned attempted to locate him in the field on October 9, 2007, but was not successful; a calling card was left at his residence (see enclosure 8). It was determined, ultimately, that § 87(2)(b)'s statement would not change the recommended dispositions of this case because there was already an independent witness to confirm the § 87(2)(b)'s allegations. The following narrative is based on § 87(2)(b)'s phone statement.

At approximately 9:00 PM, on July 28, 2007, § 87(2)(b) and § 87(2)(b) entered the gas station at Mother Gaston Boulevard and Sutter Avenue in Brooklyn to get gas and air for their motorcycles and they met up there with their friend § 87(2)(b). § 87(2)(b) was riding a grey and black motorcycle, § 87(2)(b) a yellow and blue motorcycle and § 87(2)(b) a blue motorcycle.

While the three of them were there, another group of individuals (not clear how many there were - possibly two to three), also riding motorcycles, entered the gas station. § 87(2)(b) did not know any of these people. As § 87(2)(b) was getting air for his back tire, he heard a "boom" and when he looked to the direction of the sound, he saw one of the males from this second group on a red motorcycle "taking off" with a marked police car pursuing it. Still at the gas station at this point were § 87(2)(b) and "another gentleman" whom § 87(2)(b) did not know riding on a grey and yellow motorcycle.

Soon after the motorcyclist fled from the officers, § 87(2)(b) was preparing to leave, and drove to the exit ramp while § 87(2)(b) finished putting air in his tires. At this point, a marked patrol car pulled up to block § 87(2)(b)'s exit from the gas station and immediately two black male officers exited the vehicle. One of them, identified through investigation as PO Kaz Daughtry, had his gun drawn and aimed at § 87(2)(b). The other officer, identified through investigation as PO Edson Gloragille and who § 87(2)(b) sees often in the neighborhood, did not have his gun drawn.

When PO Daughtry exited the vehicle with his firearm pointed at § 87(2)(b) he stated, "Stop or I'll kill you." At this, § 87(2)(b) turned off his bike and put his hands up. § 87(2)(b) was about 15 feet away and he clearly heard and observed the situation as the lighting was good in the gas station. PO Daughtry

then instructed § 87(2)(b) to provide his ID and to "go over there," meaning, over to a curb, away from his bike and where he was originally stopped.

§ 87(2)(b) then approached the officers, asking what was going on, and the officers said that there was an incident with another individual. § 87(2)(b) responded that that was another individual, and had nothing to do with § 87(2)(b). § 87(2)(b) also asked PO Gloragille why he did not pull out his firearm and PO Gloragille said he did not have to because he was a big guy. The officers told him to step away and § 87(2)(b) complied.

§ 87(2)(b)'s demeanor was "emotional" because he was scared by the firearm. He was saying, "Why would you do this to me? I didn't do anything. You pulled out a gun on me and threatened my life." PO Daughtry's demeanor was "arrogant" and demanding as he was telling people to "shut up" and telling § 87(2)(b) "Calm your friend down or I am going to put him in cuffs."

§ 87(2)(b) was shaken up by this incident and cried because his life had been threatened. He was not issued a summons.

Witnesses not interviewed

The other identified witnesses in this case were § 87(2)(b)'s friend, § 87(2)(b) and § 87(2)(b) who also approached § 87(2)(b) after the stop to provide her contact information. Despite numerous attempts to contact both of these individuals, they have had no contact with the undersigned. Further, other civilians at the scene, including the victim of the accident, were not identified because § 87(2)(b) and § 87(2)(b) did not know these people and no identifying information was taken from the victim. It was determined ultimately that additionally witness statements would not alter the recommended dispositions of this investigation as the veracity of § 87(2)(b)'s allegations is not in question.

Attempts to Contact Other Witnesses

§ 87(2)(b)

§ 87(2)(b) was first called on August 15, 2007 and a message was left. Letters were sent to his address on August 15, 2007, and August 31, 2007; these letters were never returned to the CCRB. On September 6, 2007, a female stating to be § 87(2)(b)'s mother called from a Pennsylvania number. She confirmed § 87(2)(b)'s telephone number and address and stated that he has been receiving the letters. She stated that she would tell him to cooperate with the CCRB's investigation. As of the date of this closing report, § 87(2)(b) has had not contact with the CCRB (see enclosure 13).

§ 87(2)(b)

Letters were sent to § 87(2)(b) on August 21, 2007, and August 31, 2007, and neither of these letters was returned to the CCRB. A visit was made to § 87(2)(b)'s home and a card was left there for her, but to date, § 87(2)(b) has not been in contact with the CCRB (see enclosure 13).

Officer Statements

Officer identifications

PO Daughtry was identified as the officer who pointed his firearm at § 87(2)(b) by description and shield number in § 87(2)(b)'s initial complaint (see enclosure 4). PO Daughtry confirmed his role in the incident in his CCRB statement. PO Gloragille was identified as PO Daughtry's partner in the roll call (see enclosure 12) and by PO Daughtry's statement. PO Gloragille also confirmed his roll in the incident in his CCRB Statement.

Officers not interviewed

§ 87(2)(b) and § 87(2)(b) indicated that they saw two other officers in the vicinity during the stop, who they identified as PSA2 officers. These officers were not involved in the incident and after

supervisory conferral, it was determined that interviewing these officers would not alter the recommended dispositions of this investigation. As such, these officers were not interviewed by the CCRB.

PO Kaz Daughtry

PO Kaz Daughtry was interviewed at the CCRB on November 9, 2007 (**see enclosure 9f**). On July 28, 2007, PO Daughtry was assigned to a conditions assignment within the confines of the 73rd Precinct. He was in uniform and assigned to unmarked patrol car #677, but he had been switched to a marked car at the time of the incident. His partner at the time of the incident was PO Edson Gloragille. He was scheduled to work a tour of 4:00 PM until 12:35 AM of the next day, but he did overtime until 2:00 AM.

Memo Book(**see enclosure 9b**): July 28, 2007: 2100 – Observed a motorcycle hit a pedestrian coming out of the gas station, motorcycle took off from ~~motorcycle stopped, 93Q~~ (sic) from me (2) two other motorcycles stay at location. As I exited my RMP 1 other motorcycle took off as I stopped § 87(2)(b) ~~96X~~ (sic) @ 93Q.

On July 28, 2007, at approximately 9:00 PM, PO Daughtry and PO Gloragille observed 3 males riding motorcycles down Stone Avenue, also known as Mother Gaston Boulevard, at Pitkin Avenue, doing “wheelies,” “endos,” driving erratically out of formation and driving in between double parked cars. PO Daughtry decided not to immediately stop them because motorcyclists, in PO Daughtry’s experience, will commonly “take off on you.” The motorcyclists then entered a gas station at the corner of where Sutter Avenue intersects with Stone Avenue; it did not appear that they were getting gas. PO Daughtry approached in his vehicle, and one of the motorcyclists previously observed drove off, striking a young black male at the exit and then continued to drive off. When PO Daughtry got closer to the station, another motorcyclist drove off. PO Daughtry stopped at the gas station and exited his vehicle. This is when PO Daughtry observed a black male, identified as § 87(2)(b) trying to start his bike, but he was having difficulties doing so. PO Daughtry could not be sure if there were more individuals on motorcycles at the gas station that night as he was only paying attention to § 87(2)(b) at this point. PO Daughtry later claimed that § 87(2)(b) was the only motorcyclist at the gas station once the officers arrived and he was positioned at the entrance of the gas station, facing Mother Gaston Boulevard. PO Daughtry parked his vehicle in front of § 87(2)(b). He did not follow the fleeing motorcycles because § 87(2)(b) was still at the location.

§ 87(2)(b) then managed to start the bike and “revved it up” while facing PO Daughtry, as if he wanted to hit the officers or have them get out of his way. The bike “moved a little bit” and PO Daughtry felt threatened by the action. PO Daughtry unholstered his firearm, put it behind his right leg without pointing it at § 87(2)(b) and said something to the effect of “Turn the fucking bike off, turn the fucking bike off.” PO Daughtry did not tell § 87(2)(b) that he was going to kill him or use any threatening language beyond the initial command. Meanwhile, PO Gloragille attempted to get information on the pedestrian who had been hit, but this individual refused medical attention and fled the scene. § 87(2)(b) turned the bike off voluntarily and then explained that he was a transit worker. PO Daughtry then asked § 87(2)(b) to give him the keys to the bike and § 87(2)(b) threw them on top of PO Daughtry’s patrol car hood. PO Daughtry holstered his weapon when the bike was off and he could see both of § 87(2)(b)’s hands. PO Daughtry asked § 87(2)(b) why he was “popping wheelies” and driving recklessly and § 87(2)(b) told PO Daughtry that he was “trying to have fun and I got a little stupid. I’m sorry.” § 87(2)(b) then asked PO Daughtry to treat him with courtesy because he was a city transit worker.

After § 87(2)(b) turned off his bike and PO Daughtry approached § 87(2)(b) he observed a bulge at § 87(2)(b)’s waistband. PO Daughtry frisked § 87(2)(b)’s waist and determined that the bulge was a cell phone.

PO Daughtry began writing a reckless driving summons, but then “felt bad.” So PO Daughtry completed a 250, deciding not to issue § 87(2)(b) a reckless driving summons as a courtesy to § 87(2)(b) for being a city transit worker. This is why the entries regarding a summons to § 87(2)(b) have been struck through in PO Daughtry’s memo book entry.

Approximately 15 civilians showed up to the scene during the incident and they were “yelling and screaming,” but PO Daughtry could not recall what they were screaming. PO Daughtry could not determine if § 87(2)(b) knew anybody at the scene.

No other officers responded to the scene and PO Daughtry denied having seen Sgt. Nemesio Vera at the scene. PO Daughtry also could not say if any PSA 2 officers arrived at the scene, although he stated that it was a possibility.

PO Edson Gloragille

PO Edson Gloragille was interviewed at the CCRB on January 8, 2008 (see **enclosure 10d**). On July 28, 2007, PO Gloragille was assigned to a conditions assignment within the confines of the 73rd Precinct. He was scheduled to work a 4:00 PM to 11:35 PM tour with PO Thomas Hardell and PO Kaz Daughtry. However, by the time of incident, PO Hardell had gone end of tour and so PO Gloragille was only with PO Daughtry. They were in a marked car and in uniform.

Memo Book (see **enclosure 10a**): July 28, 2007: 2100 – Present at the scene, corner of Sutter and Stone Avenue.

On July 28, 2007, at approximately 9:00 PM, PO Gloragille and PO Daughtry were driving southbound on Stone Avenue (also known as Mother Gaston Boulevard) in Brooklyn: PO Daughtry was driving and PO Gloragille was in the passenger seat. PO Gloragille and PO Daughtry observed approximately six to seven individuals on motorcycles inside of the gas station. They then observed one of the motorcyclists drive out of the gas station, striking a young male on a bicycle near to where the gas pumps were. This was the first time that the officers had observed these individuals on their motorcycles and PO Gloragille did not see anyone performing violations of the vehicle traffic law prior to or during this incident.

PO Gloragille and PO Daughtry then pursued the individual on the motorcycle that had hit the young male for approximately two blocks, but they lost this individual. The officers then returned to the gas station in order to speak to the victim. They parked their vehicle near the ramp to the gas station leading onto Mother Gaston Boulevard. Only the one motorcyclist had left the gas station.

At the gas station, other individuals on motorcycles were still there; PO Gloragille assumed that these individuals were friends of the motorcyclist they had just pursued. The individuals were revving their engines and so there was a lot of noise. Both officers exited the vehicle and PO Gloragille immediately approached the victim who had been hit by the motorcyclist. Meanwhile, PO Daughtry may have gone to speak to one of the motorcyclists, but PO Gloragille could not be too sure because all of his attention was on the victim.

PO Gloragille spoke to the victim for four to five minutes, asking him if he was alright, if he wanted to file a report, and if he wanted to go to the hospital. The individual stated that he was okay and refused medical attention. Meanwhile, the individuals in the gas station were still revving their engines and PO Gloragille was still not aware of what PO Daughtry had been doing at the scene.

After the young male refused medical attention, he left the scene and PO Gloragille returned to the patrol car where he met with PO Daughtry “a second later.” The officers were, at this point, prepared to leave the scene and so they did. PO Gloragille was not aware of PO Daughtry having drawn his firearm at any point and saying anything to the effect of “shut off the fucking bike or I will kill you.” PO Gloragille also was not aware nor had he been made aware that PO Daughtry had stopped, questioned or frisked anybody at the scene. PO Gloragille did not know where PO Daughtry was at the scene and did not hear him speaking to anyone. PO Gloragille never drew his firearm at the scene.

There were “a lot of” other individuals around a near-by grocery store, not on motorcycles, but PO Gloragille could not recall how many. These people were not getting involved in the incident and PO Gloragille believed that there were a lot of people around because it was “Old Timers Day,” which is a

community wide “party.” PO Gloragille did not speak to anyone else at the scene other than the victim of the motorcycle accident.

PO Gloragille did not see any other officers report to the scene and neither he nor PO Daughtry went over the radio about this incident.

PO Gloragille was not aware that a stop and frisk report had been filled out at any point by PO Daughtry for § 87(2)(b). PO Gloragille was also not aware of any individuals at the scene threatening either PO Daughtry or himself by either revving their motorcycles at them or otherwise.

Police Department Documents

Stop and Frisk Report

PO Daughtry completed a stop and frisk report for § 87(2)(b) regarding this stop. The crime suspected was criminal possession of a weapon. PO Daughtry claimed in the report that § 87(2)(b)'s demeanor was “angry.” § 87(2)(b) was frisked and searched because he had a suspicious bulge which turned out to be a cell phone. An additional factor was: “area has high incidence of reported offense” (see **enclosure 9a**).

§ 87(2)(b)

§ 87(2)(b)

Officer’s CCRB History

PO Daughtry has been with the NYPD for two years and has not been the subject officer of any substantiated CCRB allegations (see **enclosure 2**).

Conclusions and Recommendations

Undisputed Facts

It is undisputed that PO Kaz Daughtry and PO Edson Gloragille observed an unidentified male on a motorcycle strike a younger individual on a bicycle outside of the gas station at the corner of Sutter Avenue and Mother Gaston Boulevard in Brooklyn. Following this, PO Daughtry stopped § 87(2)(b) who was on his motorcycle and preparing to leave the gas station. PO Daughtry drew his firearm in some way, and mentioned something about turning of the bike, which § 87(2)(b) complied with. Ultimately, § 87(2)(b) was released without a summons and PO Daughtry prepared a stop and frisk report.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegations Not Pleaded

Although PO Daughtry and § 87(2)(b) both claimed that § 87(2)(b) was frisked during the stop, § 87(2)(b) explicitly stated that he was not frisked or searched during the stop and so that allegation has not been pleaded. § 87(2)(b) also mentioned that PO Daughtry threatened to arrest § 87(2)(b) during the incident. However, § 87(2)(b) did not allege this and so it will not be pleaded.

Analysis of Allegations

Allegation A: Abuse of Authority: PO Kaz Daughtry stopped § 87(2)(b)

After § 87(2)(b) observed an unidentified male on a motorcycle strike a younger individual on a bicycle and flee from Police Officers Daughtry and Gloragille in their marked patrol car, he began to leave the gas station. As he was leaving the scene, PO Daughtry drove up in front of him, stopping him from leaving the gas station. It was PO Daughtry's reasonable impression that § 87(2)(b) had just witnessed the accident because he saw § 87(2)(b) in the gas station when it occurred. He also believed that § 87(2)(b) may have known the suspect thus he was justified in approaching § 87(2)(b) in order to request information from him about the suspect as part of an investigation of a crime. As per Kamins, an officer may approach an individual for the purposes of an informational inquiry so long as the "intrusion [is not] arbitrary, based on whim, curiosity, caprice or desire to harass" (see enclosure 1a). As

§ 87(2)(b), § 87(2)(g)

Allegation B: Force: PO Kaz Daughtry pointed his gun at § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

PO Daughtry immediately exited his vehicle, drew his firearm and allegedly pointed it at § 87(2)(b). Judges have upheld on a number of occasions (*PD v. Gliner*, *PD v. Zahrey* and *PD v. O'Suna* (see enclosures 1e-1m) that an officer may draw and point his weapon so long as it is not done gratuitously, in a fit of pique or as a form of intimidation and has a reasonable fear for his own or other's personal safety. PO Daughtry claimed that he had drawn his weapon because § 87(2)(b) had revved his motorcycle in

his general direction, therefore PO Daughtry felt threatened. § 87(2)(b) was not the suspect of any crime. While PO Daughtry asserted that § 87(2)(b) could have used his motorcycle as a weapon, PO Gloragille did not support PO Daughtry's claim that § 87(2)(b) revved his motorcycle at him and none of the other witnesses claimed this. Further, PO Daughtry had pulled his patrol car in front of § 87(2)(b) so that § 87(2)(b) was blocked in, meaning he could not have reasonably driven the motorcycle at PO Daughtry unless he wanted to crash into the patrol car. Thus, PO Daughtry did not have a reasonable fear for his safety and he was unable to articulate any other suspicion that § 87(2)(b) had weapons. While PO Daughtry mentioned a bulge on § 87(2)(b)'s waistband, he stated that he did not observe this until after he had holstered his firearm.

§ 87(2)(g)
[REDACTED]

Allegation C: Abuse of Authority: PO Kaz Daughtry threatened § 87(2)(b) with the use of force.

According to § 87(2)(b) PO Daughtry allegedly told him, while pointing his gun at him, "Turn off the bike or I will fucking kill you." As this statement was used to achieve one single purpose of having § 87(2)(b) to turn off his bike in compliance with the officer's instructions and the threat of force was the more serious aspect, the allegation has been singularly pleaded as a threat of force. PO Daughtry admitted to the use of profanity, but he denied ever saying anything to the effect of "I will kill you." However, § 87(2)(b) and § 87(2)(b) statements corroborate § 87(2)(b)'s allegation and the circumstances further make it likely that PO Daughtry did make this threat of force. § 87(2)(g)

[REDACTED]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: